

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6167

IN THE MATTER OF:

Served March 30, 2001

Application of MONTGOMERY ASSISTED)  
TRANSPORTATION, INCORPORATED, for )  
a Certificate of Authority -- )  
Irregular Route Operations )

Case No. AP-2001-07

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver.

Applicant's secretary/treasurer, Lawrence A. M. Lee, is the CEO of Wheelchair Mobile Transport, Inc., WMATC No. 127. Applicant and Wheelchair Mobile are owned solely by Mr. Lee and other members of his family.

This case is governed by the Compact, Title II, Article XI, Section 7, regarding applications for certificates of authority, and Article XII, Section 3, regarding applications for approval of common control.

Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Article XII, Section 3(a)(iii) & (c), authorizes the Commission to approve common control of two or more WMATC carriers, through ownership of stock or other means, if the Commission finds common control is consistent with the public interest. The public interest analysis focuses on the fitness of the controlling party, the resulting competitive balance, and the interest of affected employees.<sup>1</sup>

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<sup>1</sup> Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at DC Code Ann. § 1-2414 (1999)); In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd., & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

Applicant proposes commencing operations with seven vans and three sedans. Applicant's proposed tariff contains hourly rates for transportation under a contract with LogistiCare Solutions, LLC, WMATC Carrier No. 524.

Applicant filed a balance sheet as of September 1, 2000, showing assets of \$89,500; liabilities of \$10,000; and equity of \$79,500. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATC revenue of \$650,000; expenses of \$592,500; and net income of \$57,500.

Applicant certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

The Commission also finds common control of applicant and Wheelchair Mobile is consistent with the public interest for the following reasons. First, a presumption of the controlling party's fitness obtains where the controlling party, in this case the Lee family, controls an existing WMATC carrier.<sup>2</sup> There is nothing in the record to rebut that presumption in this case. Second, there should be no adverse effect on competition from the decision of the Lee family to expand service in the Metropolitan District through an affiliate of Wheelchair Mobile instead of a division.<sup>3</sup> Finally, the existing employees of Wheelchair Mobile should not be adversely affected by our approval of this application. Launching a new service through an affiliate tends to shield employees of the preexisting carrier from the consequences of any unprofitable operations under the new one.<sup>4</sup>

Each carrier is admonished to keep its assets, books, finances and operations completely separate from the other's. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.<sup>5</sup>

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<sup>2</sup> In re Laidlaw, Inc., & Greyhound Lines, Inc., No. AP-98-53, Order No. 5504 (Jan. 22, 1999); In re LCG, Inc., t/a Laurel Consulting Group, No. AP-96-63, Order No. 4991 (Jan. 6, 1997).

<sup>3</sup> Cf., In re Laidlaw Transit Servs., Inc., No. AP-98-33, Order No. 5415 (Sept. 25, 1998) (no adverse effect from expanding through subsidiary instead of division).

<sup>4</sup> Order No. 5415.

<sup>5</sup> Order No. 4991.

THEREFORE, IT IS ORDERED:

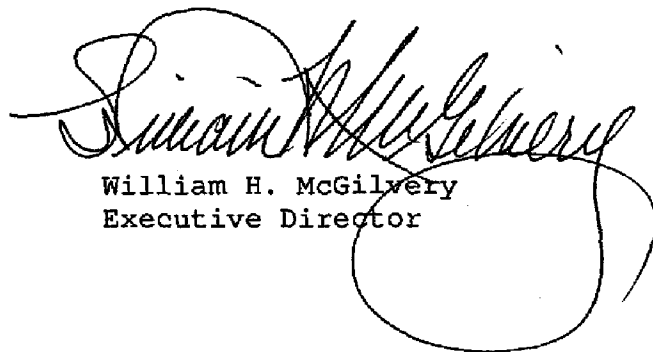
1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 600 shall be issued to Montgomery Assisted Transportation, Incorporated, 1119M Taft Street, Rockville, MD 20850.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery  
Executive Director